

**PUBLIC UTILITIES COMMISSION**

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TO PARTIES OF RECORD IN PETITION 16-05-004 and NEW OIR:

This is the proposed decision of Commissioner Picker. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's November 10, 2016 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ KAREN V. CLOPTON

Karen V. Clopton, Chief
Administrative Law Judge

KVC:ek4
Attachment

Decision **PROPOSED DECISION OF COMMISSIONER PICKER**
(Mailed 10/6/2016)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of the Safety and Enforcement
Division to Adopt, Amend, or Repeal
General Order 95 Pursuant to Pub. Util.
Code Section 1708.5.

Petition 16-05-004
(Filed May 9, 2016)

Order Instituting Rulemaking to
Consider Specified Amendments to
Rule 18 of General Order 95.

FILED
PUBLIC UTILITIES COMMISSION
NOVEMBER XX, 2016
SAN FRANCISCO, CALIFORNIA
RULEMAKING 16-11-XXX

**ORDER REGARDING PETITION 16-05-004
AND ORDER INSTITUTING RULEMAKING TO CONSIDER
SPECIFIED AMENDMENTS TO RULE 18 OF GENERAL ORDER 95**

TABLE OF CONTENTS

Title	Page
ORDER REGARDING PETITION 16-05-004 AND ORDER INSTITUTING RULEMAKING TO CONSIDER SPECIFIED AMENDMENTS TO RULE 18 OF GENERAL ORDER 95.....	1
Summary	2
1. Summary of Rule 18	2
2. Procedural Background	4
3. Summary of Petition 16-05-004.....	5
4. Responses to the Petition.....	10
5. Discussion.....	14
6. Compliance with Pub. Util. Code § 1708.5(c)	19
7. Order Instituting Rulemaking Proceeding	19
7.1. Preliminary Scoping Memo	19
7.1.1. Scope.....	19
7.1.2. Proceeding Schedule and Written Comments	20
7.1.3. Proceeding Category and Need for Hearings.....	23
7.1.4. <i>Ex Parte</i> Communications	24
7.1.5. Intervenor Compensation	24
7.1.6. Party Status and Participation.....	24
7.1.7. Subscription Service.....	25
7.1.8. Filing and Serving Documents	25
7.1.9. Public Advisor	26
7.1.10. Workshops.....	27
7.2. Service of this OIR.....	27
8. Comments on the Proposed Order	27
9. Assignment of the Proceeding.....	27
Findings of Fact.....	27
Conclusions of Law	28
ORDER	29
Appendix A: Rule 18 of General Order 95.....	
Appendix B: Proposed Amendments to Rule 18	
Appendix C.....	

**ORDER REGARDING PETITION 16-05-004
AND ORDER INSTITUTING RULEMAKING TO CONSIDER
SPECIFIED AMENDMENTS TO RULE 18 OF GENERAL ORDER 95**

Summary

In response to the petition filed by the Commission's Safety and Enforcement Division pursuant to Public Utilities Code Section 1708.5, this order institutes a rulemaking proceeding to consider the following amendments to Rule 18 of the Commission's General Order 95:

- Eliminate utilities' authority under Rule 18 to defer or forego the remediation of overhead utility facilities that pose a risk to safety and/or reliability.
- Replace the term "nonconformance" in Rule 18 with the term "violation."

The Commission may adopt these proposed amendments to Rule 18 based on the Commission's assessment of whether these amendments are likely to enhance the safety and reliability of overhead utility facilities.

1. Summary of Rule 18

General Order (GO) 95 contains rules for the design, construction, maintenance, inspection, repair, and replacement of overhead utility facilities, including electric utility facilities, communication facilities, and cable television facilities (together, "utility facilities"). The purpose of these rules is to "ensure adequate service and secure safety to persons engaged in the construction, maintenance, operation or use of overhead lines and to the public in general."¹

¹ GO 95, Rule 11.

Rule 18 of GO 95 specifies requirements for the remediation of overhead utility facilities that pose a risk to safety and/or reliability, or otherwise do not comply with GO 95. These requirements include:

- Each utility must remediate its facilities that pose a safety hazard² and/or do not conform to GO 95 requirements.³
- Upon completion of a corrective action, the utility's records must show the nature of the work performed, the date(s) the work was performed, and the identity of persons performing the work. These records must be preserved for at least ten years and made available to Commission staff.
- Every utility must have an auditable maintenance program for its overhead facilities that includes a timeline for corrective actions following the identification of safety hazards or non-conformances with GO 95. The auditable maintenance program must prioritize corrective actions consistent with the following priority levels.

Priority Level 1:

- Immediate safety and/or reliability risk with a high probability for significant impact.
- The utility must take corrective action immediately, either by fully repairing the condition or by temporarily repairing and reclassifying the condition to a lower priority.

Priority Level 2:

- Variable (non-immediate high to low) safety and/or reliability risk.
- The utility must take corrective action (fully repair or temporarily repair and reclassify the condition to a lower priority). The time period for correction is to be

² Rule 18 defines a "safety hazard" as "a condition that poses a significant threat to human life or property."

³ Rule 18 uses the term "company," which encompasses electric utilities and communications infrastructure providers. Today's order uses the term "utilities" instead of "companies".

determined by a qualified utility representative, but not to exceed 12 months for non-conformances that compromise worker safety; 12 months for non-conformances that create a fire risk and are located in an Extreme or Very High Fire Threat Zone in Southern California; and 59 months for all other Level 2 non-conformances.

Priority Level 3:

- Acceptable safety and/or reliability risk.
- The utility must take action (re-inspect, re-evaluate, or repair) as appropriate

Rule 18 is reproduced in its entirety in Appendix A of today's order.

2. Procedural Background

The Commission's Safety and Enforcement Division (SED) filed Petition (P.) 16-05-004 on May 9, 2016, pursuant to Public Utilities Code Section (Pub. Util. Code §) 1708.5, which allows "interested persons to petition the commission to adopt, amend, or repeal a regulation."

Notice of P.16-05-004 appeared in the Commission's Daily Calendar on May 11, 2016. SED filed an amended Petition on May 10, 2016, and served a copy of the amended Petition on the service lists for Rulemaking (R.) 15-05-006 and R.08-11-005. Notice of the amended Petition appeared in the Daily Calendar on May 12, 2016. All references in today's order to P.16-05-004 refer to both the original Petition and the amended Petition.

Responses were filed on June 9, 2016, by the following parties:

- A coalition of communications infrastructure providers (the CIP Coalition) consisting of AT&T California and New Cingular Wireless PCS, LLC; the California Cable and Telecommunications Association; Comcast Phone of California, LLC; Consolidated Communications of California Company; Cox Communications California, LLC and Cox California Telcom, LLC; Crown Castle NG

- West LLC; CTIA – The Wireless Association; Extenet Systems (California) LLC; the Small Local Exchange Carriers (Small LECs)⁴; Sprint Communications; Sunesys, LLC; T-Mobile West LLC dba T-Mobile; Time Warner Cable Information Services (California), LLC; and Cellco Partnership d/b/a Verizon Wireless (U3001C).
- Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U1024C), Frontier Communications of the Southwest Inc. (U1026C), and Frontier California Inc. (U1002C) (collectively “Frontier”).
 - Liberty Utilities (CalPeco Electric) LLC (U933E) (Liberty).
 - PacifiCorp.
 - Pacific Gas and Electric Company (PG&E).
 - San Diego Gas & Electric Company (SDG&E).
 - Southern California Edison Company (SCE).

SED filed a reply on June 27, 2016.

3. Summary of Petition 16-05-004

In P.16-05-004, SED asks the Commission to open a rulemaking proceeding to repeal all of Rule 18. SED notes that its predecessor, the Consumer Protection and Safety Division (CPSD), asked the Commission to adopt Rule 18 in Rulemaking (R.) 08-11-005. In accordance with CPSD’s recommendation, the Commission adopted Rule 18 in Decision (D.) 09-08-029.⁵

⁴ The Small LECs are the following carriers: Calaveras Telephone Company; Cal-Ore Telephone Co.; Ducor Telephone Company; Foresthill Telephone Co.; Happy Valley Telephone Company; Hornitos Telephone Company; Kerman Telephone Co.; Pinnacles Telephone Co.; The Ponderosa Telephone Co.; Sierra Telephone Company, Inc.; The Siskiyou Telephone Company; Volcano Telephone Company; and Winterhaven Telephone Company.

⁵ The Rule 18 adopted by D.09-08-029 was based on the auditable maintenance program for prioritizing and remediating GO 95 violations set forth in a Memorandum of Understanding (MOU) that CPSD had reached with SCE in response to Commission directives in D.04-04-065. CPSD and SED agreed in the MOU that “the principles [in the MOU] have

Footnote continued on next page

SED avers that the purpose of Rule 18, as originally adopted by D.09-08-029, was “to establish an auditable utility maintenance program, provide a framework for notification of safety hazards involving equipment owned by one company and discovered by another company, and prioritize corrective actions for General Order 95 violations.”⁶ The term “violation” was used throughout Rule 18.

SED recounts that following the adoption of Rule 18 by D.09-08-029, the Commission in D.12-01-032 amended Rule 18 to replace the term “violation” with the term “nonconformance.” CPSD took a neutral position on replacing “violation” with “nonconformance,” stating that it did not matter which term was used because the Commission had determined in D.04-04-065 that a “nonconformance” is a “violation.”⁷

SED now seeks to repeal Rule 18 because of SED’s experience that utilities are interpreting the term “nonconformance” in Rule 18 to mean something less than a “violation” of GO 95.⁸ According to SED, utilities believe that a violation of GO 95 becomes a lesser “nonconformance” under Rule 18 by the act of scheduling the violation for remediation over of period of zero to 59 months, or not at all, based on whether the utility deems the “nonconformance” to be a Level 1, Level 2, or Level 3 priority.

achieved an historically significant new model for the regulation of electric distribution system maintenance and reliability, and that such a model should be applied to all electric utilities subject to GOs 95 and 128.” (SCE Response, at pp. 2 – 3 and Appendix A.)

⁶ D.09-08-029 at 17.

⁷ D.12-01-032 at 14-15, citing D.04-04-065, 2004 Cal. PUC LEXIS 207 at *18.

⁸ SED Petition, Appendix B, Declaration of Raffy Stepanian.

SED contends that the utilities' interpretation of Rule 18 is contrary to the Commission's policy that there are no acceptable violations of GO 95. SED cites D.04-04-065 wherein the Commission held that "a failure to comply with a [General Order] is a violation. To hold otherwise could adversely impact our regulatory efforts, since we expect compliance with our [General Orders]."⁹ SED represents that in all other areas of Commission safety regulation, including underground electric safety, natural gas, and rail, there are no GOs that allow a regulated entity to deem safety violations to be acceptable "non-conformances" that do not have to be corrected promptly.

SED also seeks to repeal Rule 18 because the Rule allows utilities up to 59 months to correct violations of GO 95 (Level 2 priority) or to forgo corrections altogether if the utility deems the violation to be an "acceptable risk" (Level 3 priority). SED states that every provision in GO 95 was adopted by the Commission to protect safety. Thus, every violation of GO 95 undermines safety. SED contends that Rule 18, by allowing utilities to defer or forgo the correction of unsafe conditions, heightens the risk of disastrous safety incidents. SED represents that its investigations over the years have found that many incidents resulting in fatalities, injuries, or significant property damage were caused by GO 95 violations that utilities can defer correcting under Rule 18.¹⁰

Another reason to repeal Rule 18, SED submits, is to remove the corrosive effect that Rule 18 is having on SED's ability to compel utilities to correct safety hazards. SED reports that when it finds a violation of GO 95, SED may instruct the utility to remedy the violation quickly. However, the utility may refuse to

⁹ D.04-04-065 at 53.

¹⁰ SED did not cite any examples of such incidents.

follow SED instructions. Instead, the utility may inform SED that the violation will be corrected in accordance with Rule 18 timeframes, not SED's instructions.

SED provides several examples of how Rule 18 is an impediment to protecting public safety. The first example involves Verizon California Inc. (Verizon) communication facilities in the Belmont Heights area of Long Beach. Residents notified SED of potential violations of GO 95, which SED investigated. SED found numerous violations, notified Verizon of the violations in April 2014, and directed Verizon to correct the violations by July 18, 2014. Verizon responded that it would correct the violations in accordance with the timeframes in Rule 18, not the deadline set by SED.¹¹ SED considers the Belmont Heights incident to be a prime example of why the Commission should repeal Rule 18.

The second example involves R.14-05-013 wherein the Commission is implementing a citation program to enforce gas and electric safety (the Citation Rulemaking Proceeding). SED represents that in R.14-05-013, certain electric utilities contend that a violation of GO 95 should not be subject to a citation if the violation is scheduled to be corrected per Rule 18. SED submits that the Commission should repeal Rule 18 so that it is not used as a precedent to erode safety regulations.¹²

The final example provided by SED concerns D.15-12-005 wherein the Commission approved Frontier's acquisition of Verizon's customers, assets, and operations. D.15-12-005 ordered Verizon, prior to closing the transaction, to (1) comply with GO 95, and (2) repair all GO 95 non-conformances prioritized as

¹¹ SED Petition, Appendix B at 2. SED did not identify the number of GO 95 violations it found in the Belmont Heights area or describe the nature of the violations.

¹² After SED filed its pleadings in the instant proceeding, the Commission issued a decision in R.14-05-013 on September 30, 2016 (D.16-09-055).

Level 1 and Level 2, but not Level 3. SED submits that because D.15-12-005 did not require Verizon to correct Level 3 non-conformances, the decision did not view such non-conformances to be a violation of GO 95. SED also alleges that Verizon, by not correcting Level 3 non-conformances, “violated the Commission’s order... by using ‘nonconformance’ to mean something distinctive from a violation.”¹³

SED disagrees with the claim by several Opponents of SED’s Petition, summarized below, that SED has not demonstrated a need for a rulemaking proceeding to repeal Rule 18. SED responds that as the Commission’s expert safety staff, it has sufficient experience and knowledge to determine whether Rule 18 hinders safety. SED states that its Petition to open a rulemaking proceeding to repeal Rule 18 is a preventative measure to ensure that Rule 18 does not lead to catastrophic safety incidents like the San Bruno gas pipeline explosion and the Aliso Canyon gas storage field leak.

SED disagrees with the argument raised by several Opponents, summarized below, that SED can enforce safety regulations under Rule 18. SED responds that the enforcement tools suggested by these Opponents – such as issuing an Order Instituting Investigation or issuing citations – are lengthy and resource-intensive processes that must be used sparingly.

SED states that there is no merit to the claim by several Opponents, summarized below, that SED’s Petition is improper because it overlaps with issues that are before the Commission in R.14-05-013, the Citation Rulemaking Proceeding. SED responds that the scope of the Citation Rulemaking Proceeding does not include the central issue raised by SED’s Petition, namely, whether to

¹³ SED Petition at 14.

repeal Rule 18.¹⁴ SED adds that 14-05-013 concerns gas and electric citation programs and does not apply to CIPs. In contrast, Rule 18 – the subject of SED’s Petition – does apply to CIPs.

4. Responses to the Petition

All of the responses oppose SED’s Petition to open a rulemaking proceeding to repeal Rule 18. Each Opponent recommends that SED’s Petition be denied for one or more of the following reasons.

The Opponents disagree with SED’s claim that any deviation from GO 95 is an unacceptable safety risk that should be subject to enforcement actions. The Opponents contend that SED’s position is contrary to the Commission’s holding in D.04-04-065:

The purpose of the maintenance requirements of our GOs is not to create an enforcement regime where every failure to comply, no matter how minor, no matter what its cause, no matter whether it has been corrected, puts a utility in jeopardy of substantial daily fines. On the contrary, their purpose is to ensure safe, reliable operation of the electrical system. It is within our broad discretion under Public Utilities Code §§ 701 and 702 to establish an enforcement regime that achieves this purpose in a flexible and cost-efficient way, as we have historically done, in cooperation with the utility.... ”
(D.04-04-065, at 13.)

The Opponents observe that the Commission determined in D.04-04-065 that it “does not expect utility systems to remain pristine and newly built 100% of the time; some deterioration is inevitable.”¹⁵ The Commission also recognized

¹⁴ SED acknowledges that repeal of Rule 18, as SED advocates, would render moot the Rule 18 interpretation issues that certain opponents of SED’s Petition have asked the Commission to address in R.14-05-013.

¹⁵ D.04-04-065 at 61, Finding of Fact 1.

that “there should be ways to distinguish between hazards requiring immediate correction and hazards for which more time may be taken.”¹⁶ The Commission concluded that “it is only common sense to recognize that some violations create more serious hazards than others.”¹⁷ For example, “live electrical wires hanging into the street are more critically in need of immediate correction than replacing a cracked or missing high voltage sign at the power line level.”¹⁸ The Opponents submit that Rule 18 embodies this common-sense approach to prioritizing repairs. The Opponents contend that SED has failed to show how Rule 18’s risk-based approach to prioritizing repairs is no longer in the public interest.

The Opponents view Rule 18 as a practical approach to protecting public safety and system reliability in a cost effective manner. At the heart of Rule 18 is the requirement that utilities must (1) have an auditable maintenance program, and (2) prioritize the repair of facilities based on risk to public safety and system reliability. Facilities that pose an imminent threat to safety and/or reliability must be corrected immediately. Rule 18 allows more time to repair facilities that pose a lower threat to safety and/or reliability, or no threat at all. The Opponents assert that forcing utilities to treat all noncompliant facilities the same in terms of priority of repair, or face substantial fines, would not improve safety. Rather, it would only increase costs for utilities and their customers.

The Opponents assert that SED’s Petition to repeal Rule 18 would have the opposite effect of what SED purportedly intends. Instead of enhancing safety, the repeal of Rule 18 would diminish safety. For instance, one of the reasons the

¹⁶ D.04-04-065 at 22.

¹⁷ D.04-04-065 at 21.

¹⁸ D.04-04-065 at 21.

Commission adopted Rule 18 was to “improve documentation of maintenance, repairs, and inspections of overhead lines.¹⁹” The Commission found that “[w]ithout the documentation required by the proposed Rule 18, we lack critical evidence to ensure safety hazards are promptly corrected.²⁰” The Opponents contend that repealing Rule 18 would eliminate this important safety-related record keeping requirement.

Liberty describes other negative consequences that would flow from the repeal of Rule 18. Liberty notes that most of its California customers are located in mountainous areas at elevations greater than 6,000 feet where snow can limit Liberty’s ability to perform maintenance and repairs safely. In addition, in much of Liberty’s service territory the Tahoe Regional Planning Agency imposes a construction season from May 1 to October 15. Liberty must also coordinate its maintenance activities with a variety of Federal, State and local governmental agencies. Oftentimes, these agencies must authorize both access and the maintenance activity itself, which creates unavoidable delays.

Because of these circumstances, Liberty states that the ability to prioritize corrective actions under Rule 18 is critical to Liberty’s ability to operate in a safe, economic, and efficient manner. If Liberty cannot prioritize corrective actions in the manner allowed by Rule 18, Liberty will be forced to give equal priority to every GO 95 nonconformance. Doing so will cause Liberty to expend substantial resources without any significant benefit to public safety.

The Opponents disagree with SED’s claim that it has been rendered toothless because Rule 18 “allows utilities... to assert that they have the authority

¹⁹ D.09-08-029 at 18.

²⁰ D.09-08-029 at 18.

to (1) determine whether they have violated GO 95 and (2) make corrections as they please.”²¹ The Opponents respond that while Rule 18 does provide utilities with discretion to appropriately prioritize corrective actions, SED retains authority to enforce compliance with GO 95.

For example, SED may audit a utility’s maintenance program to ensure that a utility appropriately classifies the priority level for every nonconformance. If SED believes that a utility has failed to take corrective actions within the time periods prescribed by Rule 18, SED has the authority to investigate, issue citations, or seek fines for violations of GO 95. For non-conformances that are designated as “Level 3” and only require that the utility “take action (re-inspect, re-evaluate, or repair) as appropriate,” the Opponents state that SED and the Commission have the final say on whether a utility’s actions are appropriate.

The Opponents dispute SED’s allegation that Rule 18 has “adverse effects on public and worker safety.”²² The Opponents respond that the only safety incident mentioned by SED involved a dispute over the timing of Verizon’s remediation of non-conformances in the Belmont Heights area of Long Beach. The Opponents assert that the exhibits attached to SED’s Petition show that the dispute was not about whether the non-conformances would be repaired by Verizon. Rather, the dispute was whether Verizon was obligated to make those repairs on a schedule unilaterally set by SED instead of the schedule established by the Commission in Rule 18. In any event, the Opponents submit that a single incident of SED’s disagreement with one utility’s interpretation of Rule 18 is not sufficient justification for the wholesale repeal of Rule 18.

²¹ SED Petition at 10.

²² SED Petition at 1.

The Opponents challenge SED's claim that Rule 18 should be repealed because, in part, "electric utilities are using Rule 18 in an attempt in R.14-05-013 to exempt themselves from any and all safety violations that warrant a citation."²³ The Opponents note that R.14-05-013 is an open docket where the Commission is setting rules for the Commission's natural gas and electric safety citation programs. The Opponents acknowledge that Rule 18 is a central issue in R.14-05-013 with regard to whether a citable violation has occurred.

The Opponents contend that the objection raised by SED in its Petition about the arguments that parties are making in R.14-05-013 with respect to Rule 18 is improper under Rule 6.3(f), which states that the Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the past year. Here, the very issue of which SED complains – the interplay between Rule 18 and SED's citation authority – is pending in an open proceeding.

5. Discussion

The issue before us is whether to grant SED's Petition to institute a rulemaking proceeding to consider the repeal of Rule 18. We have broad authority to grant or deny the Petition, in whole or in part. In deciding this issue, the standard we will use is whether it appears reasonably possible, in our estimation, that the repeal of Rule 18 would enhance safety.

We conclude at the outset that the following provisions in Rule 18 protect safety and reliability and, therefore, should not be repealed:

- The definitions of "Safety Hazard," "Southern California," and "Extreme and Very High Fire Threat Zones."

²³ SED Petition at 14.

- Rule 18.A(1)(a). Each company (including utilities and CIPs) is responsible for taking appropriate corrective action to remedy Safety Hazards and GO 95 non-conformances²⁴ posed by its facilities.
- Rule 18.A(1)(b). Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years and shall be made available to Commission staff upon 30 days' notice.
- Rule 18.A(1)(c). Where a communications company's or an electric utility's actions result in GO non-conformances for another entity, that entity's remedial action will be to transmit a single documented notice of identified non-conformances to the communications company or electric utility for compliance.
- Rule 18.A(2)(a). All companies shall establish an auditable maintenance program for their facilities and lines. All companies must include a timeline for corrective actions to be taken following the identification of a Safety Hazard or nonconformance with GO 95 on the company's facilities. The auditable maintenance program shall prioritize corrective actions...²⁵ based on the following factors, as appropriate:
 - Safety and reliability...²⁶;
 - Type of facility or equipment;

²⁴ The scope of the proceeding instituted by today's order includes amending Rule 18 to replace the term "non-conformances" with "violations."

²⁵ The ellipsis signifies omitted text that may be repealed in the rulemaking proceeding instituted by today's order.

²⁶ The ellipsis signifies omitted text that may be repealed in the rulemaking proceeding instituted by today's order.

- Location, including whether the Safety hazard or nonconformance is located in an Extreme or Very High Fire Threat Zone in Southern California;
 - Accessibility;
 - Climate; and
 - Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.
- Rule 18.A(3). Companies that have existing General Order 165 auditable inspection and maintenance programs that are consistent with the purpose of Rule 18.A shall continue to follow their General Order 165 programs.
 - Rule 18.B. If a company, while performing inspections of its facilities, discovers a safety hazard on or near a utility facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard(s) no later than 10 business days after the discovery. To the extent that the inspecting company cannot determine the facility owner/operator, it shall contact the pole owner(s), who shall be responsible for promptly notifying the company owning/operating the facility with the safety hazard(s), normally not to exceed five business days after being notified of the safety hazard. The notification shall be documented and such documentation must be preserved by all parties for at least ten years. Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

Setting aside the use of the term “nonconformance” in the previously identified provisions in Rule 18, no party in this proceeding suggests that the previously identified provisions adversely affect safety or reliability.

We next consider whether it is in the public interest to open a rulemaking proceeding to consider the repeal of all other provisions in Rule 18. In general, these other provisions specify timeframes to remediate overhead utility facilities

that pose a risk to safety and/or reliability. We find that SED has made a reasonable case that allowing utilities up to 59 months to remediate facilities that pose a risk to safety and/or reliability (Priority Level 2), or to make no repairs at all (Priority Level 3), is not conducive to safety and reliability.²⁷

We also find that SED has made a reasonable case that the use of the term “nonconformance” in Rule 18 instead of the term “violation” impedes SED’s ability to enforce GO 95. We conclude that because the purpose of GO 95 is to ensure safety and reliability, restricting SED’s ability to enforce GO 95 is not conducive to safety and reliability.

For the preceding reasons, we conclude that it is in the public interest open a rulemaking proceeding to consider the following amendments to Rule 18:

- Eliminate the provisions in Rule 18 that allow utilities to defer or forgo the remediation of facilities that pose a risk to safety and/or reliability.
- Replace the term “nonconformance” in Rule 18 with the term “violation.”

The scope of the rulemaking proceeding is described in more detail below. Today’s order does not decide whether Rule 18 should be amended or resolve any other issues within the scope of the rulemaking proceeding.

We are not persuaded by the Opponents’ argument that because SED provided only one example of a safety incident (i.e., the Belmont Heights

²⁷ Safety and reliability are interrelated. Electric utilities have "a duty to provide electricity to the public" because "electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy." (D.09-09-030 at 8.) Operating a safe electric utility system “includes the reliable provision of electricity. Without power, numerous unsafe conditions can occur. Traffic signals do not work, life support systems do not work, water pumps do not work, and communication systems do not work... In short, there is a strong presumption that power should remain on for public safety reasons." (D.09-09-030 at 57.)

incident), SED failed to justify the need for a rulemaking proceeding. We do not rely on this one anecdotal incident as the basis for the rulemaking proceeding instituted by today's order. Rather, as stated previously, we find that SED has made a reasonable case that certain provisions in Rule 18 are not conducive to safety and reliability because these provisions (1) allow utilities to defer or forgo the remediation of facilities that pose a risk to safety and/or reliability, and (2) impede SED's ability to enforce GO 95.

We are not persuaded by the Opponents' contention that SED's petition should be denied because, in part, eliminating Rule 18's timeframes for remediating facilities will result in significantly higher costs by requiring utilities to correct every violation of GO 95 immediately, regardless of significance, or face the prospect of substantial fines. GO 95 has been in effect since 1942, and we are not aware of utilities incurring inordinate costs in the decades prior to the adoption of Rule 18 by D.09-08-029. Similarly, we are not aware of utilities incurring inordinate costs to remediate underground facilities that do not comply with GO 128, which has been in effect since 1967, even though GO 128 does not have provisions like Rule 18.²⁸

We disagree with the argument raised by several Opponents that SED's Petition does not comply with Rule 6.3(f) because the Petition addresses matters that are before the Commission in R.14-05-013. Rule 6.3(f) states:

The Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the preceding 12 months.

²⁸ Today's order does not (i) decide the issue of whether the repeal of Rule 18 would cause utilities to incur significantly higher costs, or (ii) preclude utilities from raising this issue in the rulemaking proceeding instituted by today's order.

The scope of R.14-05-013 does not include the central issue raised by SED's Petition, namely, whether to repeal Rule 18 of GO 95. Consequently, Rule 6.3(f) does not apply to SED's Petition.

6. Compliance with Pub. Util. Code § 1708.5(c)

Pub. Util. Code § 1708.5(c) states as follows:

If the commission denies a petition, the order or resolution of the commission shall include a statement of the reasons of the commission for that denial.

Today's order grants in part and denies in part SED's Petition to institute a rulemaking proceeding to repeal all of Rule 18. We deny the Petition to the extent it seeks to repeal the provisions in Rule 18 that manifestly protect public safety. These provisions are listed in Section 5 of today's order.

7. Order Instituting Rulemaking Proceeding

In response to SED's Petition, we hereby institute a rulemaking proceeding pursuant to Pub. Util. Code § 1708.5. This Order Instituting Rulemaking (OIR) contains a preliminary scoping memo pursuant to Rule 7.1(d) that sets forth the scope and schedule of this rulemaking proceeding, preliminarily determines the category of this proceeding and the need for hearings, and addresses other matters that are customarily the subject of scoping memos.

7.1. Preliminary Scoping Memo

7.1.1. Scope

The scope of this rulemaking proceeding is to consider whether to adopt the following amendments to Rule 18 of GO 95:

- Eliminate Rule 18's timeframes for remediating facilities that pose a risk to safety and/or reliability.
- Replace the term "nonconformance" in Rule 18 with the term "violation."

- Correction of non-substantive typographical errors in Rule 18 (e.g., replacing the reference to “Decision 11-XX-YYY” with “Decision 12-01-032”).
- Ancillary amendments to Rule 18, other rules in GO 95, and other general orders, as appropriate, to reflect the previous proposed amendments to Rule 18.

The specific amendments to Rule 18 that are within the scope of this proceeding are set forth in Appendix B of this OIR. The Commission may adopt these proposed amendments to Rule 18 based on the Commission’s assessment of whether these amendments are likely to enhance the safety and reliability of overhead utility facilities. The assigned Commissioner may refine the scope of this proceeding, as appropriate.

Consistent with Rule 6.3(a) of the Commission’s Rules of Practice and Procedure, any amendments to Rule 18 adopted in this rulemaking proceeding will apply prospectively. The assigned Commissioner may refine the scope of this proceeding, as appropriate, in the scoping memo issued pursuant to Rule 7.3(a) of the Commission’s Rules of Practice and Procedure.²⁹

7.1.2. Proceeding Schedule and Written Comments

The preliminary schedule is summarized below. The schedule may be revised by the assigned Commissioner and/or the assigned Administrative Law Judge (ALJ) to develop an adequate record, provide due process, and conduct this rulemaking proceeding in an orderly and efficient manner.

²⁹ All references to the term “Rule” refer to the Commission’s Rules of Practice and Procedures, with the exception of Rule 18 of General Order 95.

Preliminary Schedule for the Proceeding	
Event	Date (Measured from the Effective Date of this OIR)
Combined Opening Comments and Prehearing Conference Statements Filed and Served	50 Days
Reply Comments Filed and Served	60 Days
Prehearing Conference (PHC)	To Be Determined
Workshops, Additional Written Comments, Briefs, Etc.	To Be Determined
Projected Submission Date (if applicable)	To Be Determined

The assigned Commissioner and/or the assigned ALJ will schedule a PHC as soon as practicable. The combined opening comments and PHC statements due on Day 50 should address the following matters:

- The matters set forth in Rule 6.2, including any objections to the preliminary scoping memo regarding the category, need for hearings, issues to be considered, or schedule.
- The party's positions and recommendations regarding matters within the scope of this proceeding. Comments that include factual assertions must be verified in accordance with Rule 1.11.
- Examples of overhead utility facilities that meet all of the following criteria: (i) do not comply with GO 95, (ii) pose a risk to safety and/or reliability, and (iii) categorized as a Level 2 priority or a Level 3 priority under Rule 18. Examples with a Level 2 priority should be listed separately from examples with a Level 3 priority.
- Ancillary amendments to Rule 18, other rules in GO 95, and other general orders that are necessary to reflect the proposed amendments to Rule 18 set forth in Appendix B of this order.
- A proposed schedule for addressing issues within the scope of this proceeding, including all major events contemplated by the party such as additional comments, workshops, workshop

- reports, mediation, discovery cutoff, evidentiary hearings and/or briefs, and other events.
- Whether an evidentiary hearing is needed. Any party who believes a hearing is necessary to receive testimony regarding adjudicative facts must make an explicit request in its filed comments. The request must (i) identify the material disputed facts, (ii) explain why a hearing must be held, (iii) describe the general nature of the evidence that would be introduced at a hearing, and (iv) provide a schedule for all hearing-related events.
 - Any other matters that are relevant to the scope, schedule, or conduct of this rulemaking proceeding.

In order to receive service of comments and reply comments, persons should request addition to the Official Service List as “Information Only” or “State Service.” Instructions for addition to the Official Service List are provided in Section 8.1.5 of today’s order.

Pursuant to Pub. Util. Code § 1708.5(f), the Commission may conduct this proceeding using notice and comment rulemaking procedures. Accordingly, the comments and reply comments due on Day 50 and Day 60, respectively, may constitute the record used by the Commission to decide matters within the scope of this proceeding. Parties should include in their comments and reply comments all legislative facts and other information they want the Commission to consider in this proceeding, as there may not be another opportunity for parties to present such information to the Commission.

Consistent with Rule 6.2 and the statutory deadline for quasi-legislative proceedings set forth in Pub. Util. Code § 1701.5(b), we expect this proceeding to conclude no later than 18 months from the date the scoping memo is issued pursuant to Rule 7.3(a) of the Commission’s Rules of Practice and Procedure.

The final schedule for this proceeding will be established by the assigned Commissioner in a scoping memo issued pursuant to Rule 7.3(a).

7.1.3. Proceeding Category and Need for Hearings

Pursuant to Rule 7.1(d), we preliminarily determine that (1) the category for this rulemaking proceeding is quasi-legislative as that term is defined in Rule 1.3(d), and (2) there is no need for evidentiary hearings in this proceeding. As permitted by Rule 6.2, parties may address these preliminary determinations (and all other determinations in this preliminary scoping memo) in their written comments that are filed and served in accordance with the previously identified schedule for this proceeding. The assigned Commissioner will make a final determination regarding the category of this proceeding and the need for hearings in a scoping memo issued pursuant to Rules 7.1(d) and 7.3(a).

Pub. Util. Code § 1708.5(f) provides that "the commission may conduct any proceeding to adopt, amend, or repeal a regulation using notice and comment rulemaking procedures, without an evidentiary hearing, except with respect to a regulation being amended or repealed that was adopted after an evidentiary hearing, in which case the parties to the original proceeding shall retain any right to an evidentiary hearing accorded by Section 1708." Because the Commission adopted and subsequently amended Rule 18 in R.08-11-005 without an evidentiary hearing, Pub. Util. Code § 1708.5(f) allows the Commission to amend Rule 18 in the instant rulemaking proceeding without an evidentiary hearing.³⁰

³⁰ Parties may request evidentiary hearings as set forth in Section 8.1.2 above.

7.1.4. Ex Parte Communications

This proceeding is preliminarily categorized as quasi-legislative. In a quasi-legislative proceeding, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors, and the ALJ are permitted without restriction or reporting as described in Pub. Util. Code § 1701.4(b) and Article 8 of the Commission's Rules.

7.1.5. Intervenor Compensation

In accordance with Pub. Util. Code § 1804(a)(1) and Rule 17.1, a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation no later than 30 days after the date of the PHC or as otherwise directed by the assigned Commissioner or the assigned ALJ.

7.1.6. Party Status and Participation

The Official Service List for P.16-05-004 shall constitute the initial Official Service List for the rulemaking proceeding instituted by this order. Thus, any person or entity that is listed in the Party category, State Service category, or Information Only category on the Official Service List for P.16-05-004 will retain this category on the initial Official Service List for this rulemaking proceeding. Henceforth, additions to the Party category on the Official Service List for this rulemaking proceeding shall be governed by Rule 1.4.

The Commission's practice is to list only one representative per party in the "Party" category of the official service list. Other representatives for the same party may be placed on the service list in the "State Service" category or the "Information Only" category.

Any person or entity that wants to receive electronic service of documents in this proceeding may be added to the Official Service List for this proceeding as "Information Only" by completing the Request for Addition or Change to

Service List (http://www.cpuc.ca.gov/forms/service_list_addition_change.pdf.) and submitting it to the Commission's Process Office (process_office@cpuc.ca.gov).

To ensure receipt of all documents, requests to be added to the Official Service List in the "State Service" category or the "Information Only" category should be sent to the Process Office as soon as practical. The Commission's Process Office will publish the official service list on the Commission's website (www.cpuc.ca.gov) and will update the list as necessary.

The Official Service List for this rulemaking proceeding is available on the Commission's web page. Each person on the Official Service List is responsible for ensuring that the information they have provided is correct and up-to-date. This information can be changed, corrected, and updated by sending an e-mail to the Process Office, with a copy to everyone on the Official Service List. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets this definition.

7.1.7. Subscription Service

Persons may monitor this proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the Official Service List in order to use the subscription service. Instructions for enrolling in the subscription service are available at <http://subscribecpuc.cpuc.ca.gov>.

7.1.8. Filing and Serving Documents

All pleadings in this proceeding shall be filed and served in conformance with Article 1 of the Commission's Rules of Practice and Procedure. The assigned Commissioner and the assigned ALJ may establish additional requirements for filing and/or serving documents in this proceeding.

This proceeding will follow the electronic service protocols in Rule 1.10. All parties in this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m. on the date scheduled for service.³¹ The format of served documents must comply with the requirements in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Information about electronic filing of documents is available at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office.

Finally, any supporting documents required in this proceeding shall be submitted electronically to the Commission's website in accordance with the instructions contained in Appendix C of this preliminary scoping memo.

7.1.9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures may obtain more information by visiting the Commission's website at <http://consumers.cpuc.ca.gov/pao>, by calling the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY)), or by e-mailing the Public Advisor at public.advisor@cpuc.ca.gov.

³¹ If no e-mail address is provided, service should be made by first-class mail. Parties are expected to provide paper copies of served documents upon request.

7.1.10. Workshops

Any workshops in this proceeding shall be open to the public and noticed in the Commission's Daily Calendar. The notice in the Daily Calendar shall inform the public that a decision-maker or an advisor may be present at the workshop. Parties shall check the Daily Calendar regularly for such notices.

7.2. Service of this OIR

The Executive Director shall serve a notice of availability of this OIR on the service lists for Petition 16-05-004, R.15-05-006, and R.08-11-005. Such service does not confer party status in this rulemaking proceeding or result in any person or entity being placed on the service list for this proceeding.

8. Comments on the Proposed Order

The proposed order in this matter was mailed to the parties in P.16-05-004 in accordance with Section 311 of the Public Utilities Code, and comments were allowed pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____ by _____. Reply comments were filed on _____ by _____.

9. Assignment of the Proceeding

For SED's Petition 16-05-004, Michael Picker is the assigned Commissioner and Timothy Kenney is the assigned ALJ.

Findings of Fact

1. The safety and reliability of overhead utility facilities are interrelated. Overhead utility facilities that are not reliable pose a risk to public safety.
2. SED has made a reasonable case that Rule 18 is not conducive to safety and reliability to the extent the Rule allows utilities to defer or forgo the remediation of overhead facilities that pose a risk to safety and/or reliability.

3. SED has made a reasonable case that the use of the term “nonconformance” in Rule 18 instead of the term “violation” has the effect of circumscribing SED’s ability to enforce GO 95. Because the purpose of GO 95 is to ensure safety and reliability, restricting SED’s ability to enforce GO 95 is not conducive to safety and reliability.

4. Although SED has made a reasonable case that certain provisions in Rule 18 are not conducive to safety and reliability, Rule 18 also contains provisions that manifestly protect safety and reliability. These latter provisions are identified in Section 5 of today’s order.

Conclusions of Law

1. It is in the public interest to institute a rulemaking proceeding to consider the following amendments to Rule 18 of GO 95:

- i. Eliminate the provisions in Rule 18 that allow utilities to defer or forgo the remediation of overhead facilities that pose a risk to safety and/or reliability.
- ii. Replace the term “nonconformance” in Rule 18 with the term “violation.”
- iii. Correction of non-substantive typographical errors in Rule 18.
- iv. Ancillary amendments to Rule 18, other rules in GO 95, and other general orders, as appropriate, to reflect the previous proposed amendments to Rule 18.

2. Petition 16-05-004 should be granted to the extent it asks the Commission to open a rulemaking proceeding to consider the matters identified in the previous Conclusion of Law. The Petition should be denied in all other respects.

3. The following order should be effective immediately so that the rulemaking proceeding instituted by the order may commence forthwith.

O R D E R

IT IS ORDERED that:

1. A rulemaking proceeding is instituted to consider the following amendments to Rule 18 of General Order (GO) 95:

- i. Eliminate the provisions in Rule 18 that allow utilities to defer or forgo the remediation of overhead facilities that pose a risk to safety and/or reliability.
- ii. Replace the term “nonconformance” in Rule 18 with the term “violation.”
- iii. Correction of non-substantive typographical errors in Rule 18.
- iv. Ancillary amendments to Rule 18, other rules in GO 95, and other general orders, as appropriate, to reflect the previous proposed amendments to Rule 18.

The proposed amendments to the text of Rule 18 are set forth in Appendix B of this Order. The assigned Commissioner may refine the scope of this proceeding.

2. The preliminary schedule for this rulemaking proceeding is set forth in the body of this Order, at Section 7.1.2. The assigned Commissioner and/or the assigned Administrative Law Judge may modify the proceeding schedule for the reasonable, efficient, and orderly conduct of this proceeding.

3. The preliminary category for this rulemaking proceeding is quasi-legislative as that term is defined in Rule 1.3(d) of the Commission’s Rules of Practice and Procedure.

4. There is no preliminary need for an evidentiary hearing in this rulemaking proceeding.

5. The Executive Director shall serve a notice of availability of this Order Instituting Rulemaking on the service lists for Petition 16-05-004, Rulemaking (R.) 15-05-006, and R.08-11-005. Service of this Order does not confer party status or placement on the Official Service List for this rulemaking proceeding.

6. The Official Service List for Petition 16-05-004 shall constitute the initial Official Service List for the rulemaking proceeding instituted by this Order. Henceforth, additions to the Party category on the Official Service List for this rulemaking proceeding shall be governed by Rule 1.4 of the Commission's Rules of Practice and Procedure.

7. Any person may file opening comments and/or reply comments regarding the proposed amendments to Rule 18 of General Order 95 in accordance with the schedule in the body of this Order, at Section 7.1.2. The scope of the comments is set forth in body of this Order, at Section 7.1.2.

8. The deadline in this rulemaking proceeding to file and serve notices of intent to claim intervenor compensation is 30 days after the date of the prehearing conference or as otherwise directed by the assigned Commissioner or the assigned Administrative Law Judge.

9. Petition 16-05-004 is granted to the extent set forth above. The Petition is denied in all other respects.

10. The docket for Petition 16-05-004 is closed.

This Order is effective today.

Appendix A: Rule 18 of General Order 95

The complete text of Rule 18 of General Order 95 is reproduced below.

18 Reporting and Resolution of Safety Hazards Discovered by Utilities

For purposes of this rule, "Safety Hazard" means a condition that poses a significant threat to human life or property.

"Southern California" is defined as the following: Imperial, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, and Ventura Counties.

"Extreme and Very High Fire Threat Zones" are defined on the Fire and Resource Assessment Program (FRAP) Map prepared by the California Department of Forestry and Fire Protection or the modified FRAP Map prepared by San Diego Gas & Electric Company (SDG&E) and adopted by Decision 12-02-032 in Phase 2 of Rulemaking 08-11-005. All entities subject to Rule 18 shall use the FRAP Map to implement Rule 18, except that SDG&E may use its modified FRAP Map to implement Rule 18.

A Resolution of Safety Hazards and General Order 95 Nonconformances

- (1)(a) Each company (including utilities and CIPs) is responsible for taking appropriate corrective action to remedy Safety Hazards and GO 95 nonconformances posed by its facilities.
- (b) Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years and shall be made available to Commission staff upon 30 days notice.

- (c) Where a communications company's or an electric utility's actions result in GO nonconformances for another entity, that entity's remedial action will be to transmit a single documented notice of identified nonconformances to the communications company or electric utility for compliance.
- (2) (a) All companies shall establish an auditable maintenance program for their facilities and lines. All companies must include a timeline for corrective actions to be taken following the identification of a Safety Hazard or nonconformances with General Order 95 on the company's facilities. The auditable maintenance program shall prioritize corrective actions consistent with the priority levels set forth below and based on the following factors, as appropriate:
- Safety and reliability as specified in the priority levels below;
 - Type of facility or equipment;
 - Location, including whether the Safety Hazard or nonconformance is located in an Extreme or Very High Fire Threat Zone in Southern California;
 - Accessibility;
 - Climate;
 - Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.

There shall be 3 priority levels.

- (i) Level 1:
- Immediate safety and/or reliability risk with high probability for significant impact.
 - Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.

- (ii) Level 2:
 - Variable (non-immediate high to low) safety and/or reliability risk.
 - Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority). Time period for correction to be determined at the time of identification by a qualified company representative, but not to exceed: (1) 12 months for nonconformances that compromise worker safety, (2) 12 months for nonconformances that create a fire risk and are located in an Extreme or Very High Fire Threat Zone in Southern California, and (3) 59 months for all other Level 2 nonconformances.
- (iii) Level 3:
 - Acceptable safety and/or reliability risk.
 - Take action (re-inspect, re-evaluate, or repair) as appropriate.
 -
- (b) Correction times may be extended under reasonable circumstances, such as:
 - Third party refusal
 - Customer issue
 - No access
 - Permits required
 - System emergencies (e.g. fires, severe weather conditions)
 -
- (3) Companies that have existing General Order 165 auditable inspection and maintenance programs that are consistent with the purpose of Rule 18A shall continue to follow their General Order 165 programs.

B. Notification of Safety Hazards

If a company, while performing inspections of its facilities, discovers a safety hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard(s) no later than 10 business days after the discovery. To the extent the inspecting company cannot determine the facility owner/operator, it shall contact the pole owner(s), who shall be responsible for promptly notifying the company owning/operating the facility with the safety hazard(s), normally not to exceed five business days after being notified of the safety hazard. The notification shall be documented and such documentation must be preserved by all parties for at least ten years.

Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

Note: Added August 20, 2009 by Decision No. 09-08-029. Revised January 12, 2012 by Decision No. 1201032.

(END OF APPENDIX A)

Appendix B: Proposed Amendments to Rule 18

The main scope of this proceeding consists of the proposed amendments to Rule 18 that are set forth in the following Appendix B. The proposed amendments are marked with strikethrough (deleted text) and underline (added text).

18 Reporting and Resolution of Safety Hazards Discovered by Utilities

For purposes of this rule, “Safety Hazard” means a condition that poses a significant threat to human life or property.

“Southern California” is defined as the following: Imperial, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, and Ventura Counties.

“Extreme and Very High Fire Threat Zones” are defined on the Fire and Resource Assessment Program (FRAP) Map prepared by the California Department of Forestry and Fire Protection or the modified FRAP Map prepared by San Diego Gas & Electric Company (SDG&E) and adopted by Decision D.12-01-032 ~~11-XX-YYY~~ in Phase 2 of Rulemaking 08-11-005. All entities subject to Rule 18 shall use the FRAP Map to implement Rule 18, except that SDG&E may use its modified FRAP Map to implement Rule 18.

**Part A: Resolution of Safety Hazards and General Order 95 Violations
Nonconformances**

- (1)(a) Each company (including utilities and CIPs) is responsible for taking appropriate corrective action to remedy Safety Hazards and GO 95 violations ~~nonconformances~~ posed by its facilities.
- (b) Upon completion of the corrective action, the company’s records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least ten (10) years and shall be made available to Commission staff upon 30 days’ notice.
- (c) Where a communications company’s or an electric utility’s actions result in GO violations ~~nonconformances~~ for another entity, that entity’s remedial action will be to transmit a single documented notice of identified violations ~~nonconformances~~ to the communications company or electric utility for compliance.
- (2)(a) All companies shall establish an auditable maintenance program for their facilities and lines. All companies must include a timeline for corrective actions to be taken following the identification of a Safety Hazard or violations of ~~nonconformances with~~ General Order 95 on the company’s facilities. The auditable maintenance program shall prioritize corrective actions ~~consistent with the priority levels set forth below and~~ based on the following factors, as appropriate:

- Safety and reliability as specified in the priority levels below;
- Type of facility or equipment;
- Location, including whether the Safety Hazard or violation nonconformances is located in an Extreme or Very High Fire Threat Zone in Southern California;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public.

There shall be 3 priority levels.

(i) Level 1:

- ~~Immediate safety and/or reliability risk with high probability for significant impact.~~
- ~~Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.~~

(ii) Level 2:

- ~~Variable (non-immediate high to low) safety and/or reliability risk.~~
- ~~Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).~~

~~Time period for correction to be determined at the time of identification by a qualified company representative, but not to exceed: (1) 12 months for nonconformances that compromise worker safety, (2) 12 months for nonconformances that create a fire risk and are located in an Extreme or Very High Fire Threat Zone in Southern California, and (3) 59 months for all other Level 2 nonconformances.~~

(iii) Level 3:

- ~~Acceptable safety and/or reliability risk.~~
- ~~Take action (re-inspect, re-evaluate, or repair) as appropriate.~~

~~(b) Correction times may be extended under reasonable circumstances, such as:~~

- ~~Third party refusal~~
 - ~~Customer issue~~
 - ~~No access~~
 - ~~Permits required~~
 - ~~System emergencies (e.g. fires, severe weather conditions)~~
- (3) Companies that have existing General Order 165 auditable inspection and maintenance programs that are consistent with the purpose of Rule 18A shall continue to follow their General Order 165 programs.

B. Notification of Safety Hazards

If a company, while performing inspections of its facilities, discovers a safety hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard(s) no later than 10 business days after the discovery. To the extent the inspecting company cannot determine the facility owner/operator, it shall contact the pole owner(s), who shall be responsible for promptly notifying the company owning/operating the facility with the safety hazard(s), normally not to exceed five business days after being notified of the safety hazard. The notification shall be documented and such documentation must be preserved by all parties for at least ten years.

Note: Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

(END OF APPENDIX B)

Appendix C
Instructions for the Electronic Submission
and Format of Supporting Documents

The Commission's website accepts electronic submittal of supporting documents such as testimony and work papers.

If such documents are required in this proceeding, parties shall submit their testimony or work papers in this proceeding through the Commission's electronic filing system.³² Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature:
(<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and
- The Naming Convention for Electronic Submission of Supporting Documents:
(<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e., "*ex parte* communications") or other matters related to a proceeding.

³² These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the ALJ), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the CPUC.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e., “record”) unless accepted into the record by the ALJ.

All documents submitted through the “Supporting Documents” Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security – PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention – The Commission is required by [Resolution](#) L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the Docket Card. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “E-filed Documents, ”
- Select “Supporting Document” as the document type, (do not choose testimony),
- Type in the proceeding number and hit search.

Please refer all technical questions regarding the submittal of supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov)
(415) 703-3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov)
(415) 703-5999

(END OF APPENDIX C)